IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 379 of 1993

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SITABEN KANAJI THAKORE AND ANOTHER

Versus

THAKORE KANAJI BHIKHAJI AND ANOTHER

Appearance:

MS JAYSHREE C BHATT for Petitioners

MS SUBHADRA G PATEL for Respondent No. 1

MR ST MEHTA APP for Respondent No. 2

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 13/09/2000

ORAL JUDGEMENT

This revision application has been preferred by

the applicants in Criminal case no. 356 of 1992. The applicants are the wife and the minor daughter of the Opponent-Thakor Kanaji Bhikhaji. The application was made for maintenance under Section 125 CrPC. It was alleged that the Opponent-Thakore Kanaji Bhikhaji was serving as a Jeep Driver in the Oil & Natural Gas Corporation Limited and had been earning sum of Rs. 3500/= per month. He had an affair with a tribal woman and on account of such relationship, he used to harass the applicants and also used to beat them. The applicants were driven out of the house by the opponent. The application was allowed by the learned Civil Judge (JD), Kalol on 16th August, 1992. The learned Judge allowed a sum of Rs. 125/= to the applicant no. 1 wife and a sum of Rs. 75/- to applicant no. 2-minor daughter as monthly maintenance. Feeling aggrieved, the applicants have preferred the present petition and have prayed for enhancement of the amount of maintenance.

It appears that though it was alleged that the opponent was serving as a Jeep Driver in the Oil & Natural Gas Corporation Limited, the same was not proved. The opponent had denied that he was serving as a Jeep Driver, as alleged. It was contended that the opponent was doing labour work and was earning Rs. 25/= a day. The learned Judge, since the opponent was admittedly earning Rs. 750/= a month, awarded the maintenance as aforesaid. The applicants have maintained that the opponent was serving as a Jeep Driver in the Corporation, however, it is not proved. Except the oral evidence of the applicant no.1, no documentary evidence has been produced in support of this allegation. It is, therefore, not possible to hold that the opponent has been serving in the Corporation, as alleged. However, since admittedly, the Opponent was earning Rs. 750/= a month, I am of the view that atleast a sum of Rs. 300/= ought to be awarded by way of maintenance to the applicants. The order of the learned Magistrate is accordingly modified.

It is declared that the applicant no. 1 wife is entitled to a monthly maintenance of Rs. 200/= from the date of the application and the applicant no. 2 - minor daughter is entitled to a monthly maintenance of Rs. 100/= from the date of the application.

Revisio terms. The opponent no. 1-Thakor Kanaji Bhikhaji will deposit the amount of arrears of maintenance with the trial court on or before 1st January, 2001. On deposit of the amount of arrears, the applicants shall be entitled to withdraw the same. Rule

is made absolute to the above extent with costs.

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Prakash*